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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in the Lok Sabha on the 28th November, 1973:—

BILL No. 92 OF 1973

A Bill to provide for the taking over, in the public interest, of the management of the undertakings of certain companies, pending nationalisation of such undertakings, with a view to ensuring rational and co-ordinated development and production of rolling stock, other products of iron and steel industry and other goods needed by such industry, and for matters connected therewith or incidental thereto.

WHEREAS Burn and Company Limited and Indian Standard Wagon Company Limited, which are inter-linked both financially and production-wise, are engaged in the production of goods which are vital to the needs of the economy of the country, such as, railway wagons and components thereof, steel structurals, iron castings, forgings and the like and also other goods needed by the iron and steel industry;

AND WHEREAS there has been a substantial fall in the production of goods by both the companies by reason of the mismanagement of the affairs thereof, and such fall in production has adversely affected the production of goods which are vital to the needs of the economy of the country as also the fulfilment of contracts for the supply of railway wagons to countries abroad;

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title.

1. This Act may be called the Burn Company and Indian Standard Wagon Company (Taking Over of Management) Act, 1973.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the date on which this Act comes into force;

(*b*) "Custodian" means the person appointed under section 4 to take over the management of the undertakings of the two companies;

(*c*) "prescribed" means prescribed by rules made under this Act;

(*d*) "two companies" means Burn and Company Limited and Indian Standard Wagon Company Limited, being companies as defined in the Companies Act, 1956 and both having their registered offices at 12, Mission Row, Calcutta—1; 1 of 1956.

(*e*) words and expressions used but not defined in this Act and defined in the Companies Act, 1956, have the meanings respectively assigned to them in that Act. 1 of 1956.

CHAPTER II

MANAGEMENT OF THE UNDERTAKINGS OF THE TWO COMPANIES

Management of the undertakings of the two companies to vest in Central Government.

3. (*1*) On and from the appointed day, the management of the undertakings of the two companies shall vest in the Central Government.

(*2*) The undertakings of each of the two companies shall be deemed to include all assets, rights leaseholds (including mining leases, if any), powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, washeries, smelters, ropeways, stores, instruments, machinery, aircraft, locomotives, automobiles and other vehicles, cash balances, reserve fund, investments and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession, power or control of each of the two companies, whether within or without India, and all books of account, registers, maps, plans, sections, drawings, records of survey and all other documents of whatever nature relating thereto.

(*3*) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the business and affairs of each of the two companies in relation to the undertakings owned by each of them, and in force immediately before the appointed day, shall be deemed to have terminated on the appointed day.

(*4*) All persons in charge of the management, including persons holding offices as directors, managers or any other managerial personnel of

each of the two companies, immediately before the appointed day, shall be deemed to have vacated their offices as such on the appointed day.

(5) Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions contained in sub-section (3), or who ceases to hold any office by reason of the provisions contained in sub-section (4), shall be entitled to claim any compensation for the premature termination of the contract of management or other arrangement or for the loss of office, as the case may be.

Custodian of the two companies.

4. (1) The Central Government may, as soon as it is convenient administratively so to do, appoint any person (including a Government company, whether in existence at the commencement of this Act or incorporated thereafter) as the Custodian of the undertakings of the two companies for the purpose of taking over the management thereof, and the Custodian shall carry on the management of the undertakings of the two companies for and on behalf of the Central Government.

(2) The Central Government may also appoint a person (including a Government company, whether in existence at the commencement of this Act or incorporated thereafter) as the Additional Custodian of the undertakings of the two companies for assisting the Custodian in the exercise of his powers and duties under this Act.

(3) The Additional Custodian shall function under the direction, supervision and control of the Custodian and the Custodian may delegate all or such of the powers as he may think fit to the Additional Custodian.

(4) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Custodian as to his powers and duties as the Central Government deems to be desirable in the circumstances of the case, and the Custodian may also apply to the Central Government at any time for instructions as to the manner in which the Custodian shall conduct the management of the undertakings of the two companies or in relation to any other matter arising in the course of such management.

(5) Subject to the other provisions of this Act and to the control of the Central Government, the Custodian shall be entitled, notwithstanding anything contained in the Companies Act, 1956, to exercise all the powers of the Board of Directors of the two companies (including the power to dispose of any properties or assets of the two companies) whether such powers are derived from the Companies Act, 1956, or from the memoranda and articles of association of either of the two companies or from any other source.

1 of 1956.

(6) Every person having possession, custody or control of any property forming part of the undertaking of either of the two companies shall deliver forthwith such property to the Custodian or to any officer or other employee of the Central Government or the concerned company, as may be authorised by the Central Government in this behalf.

(7) Any person who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to the

undertaking of either of the two companies, including the minutes books containing the resolutions of the persons in charge of the management thereof before the appointed day, the current cheque books relating to the undertaking of such company, any letters, memoranda, notes or other communications between him and such company shall, notwithstanding anything contained in any law for the time being in force, be liable to account for the books, papers and other documents (including such minutes books, cheque books, letters, memoranda, notes or other communications) to the Custodian and shall deliver them up to the Custodian or to any such person (being an officer or other employee of the Central Government or either of the two companies) as may be authorised by the Central Government in this behalf.

(*8*) Every person in charge of the management of the undertaking of either of the two companies immediately before the appointed day shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Custodian a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) forming part of the undertaking of such company immediately before the appointed day and of all the liabilities and obligations of such company in relation to its undertaking subsisting immediately before that day and also of all agreements entered into by such company in relation to its undertaking and in force immediately before that day.

(*9*) The Custodian and the Additional Custodian shall receive from the funds of the undertakings of the two companies such remuneration as the Central Government may fix.

Payment of amount.

5. (*1*) **The two companies shall be given by the Central Government an amount in cash, for the vesting in it, under section 3, of the management of the undertakings of such companies.**

(*2*) **For every month during which the management of the undertakings of the two companies remains vested in the Central Government, the amount referred to in sub-section** (*1*) **shall be computed at the rate of—**

(*a*) **rupees fifty thousand per annum in the case of Burn and Company Limited; and**

(*b*) **rupees twenty-five thousand per annum in the case of Indian Standard Wagon Company Limited.**

CHAPTER III

MISCELLANEOUS

Application of Act 1 of 1956.

6. (*1*) Notwithstanding anything contained in the Companies Act, 1956, or in the memorandum or articles of association of either of the two companies, so long as the management of the undertakings of the two companies remains vested in the Central Government,—

(*a*) it shall not be lawful for the shareholders of either of the two companies or any other person to nominate or appoint any person to be a director of such company;

(*b*) no resolution passed at any meeting of the shareholders of either of the two companies on or after the appointed day shall be given effect to unless approved by the Central Government;

(*c*) no proceeding for the winding up of either of the two companies or for the appointment of a liquidator or receiver in respect thereof shall lie in any court except with the consent of the Central Government.

(*2*) Subject to the provisions contained in sub-section (*1*), and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956, shall continue to apply to the two companies in the same manner as it applied thereto before the appointed day.

1 of 1956.

Penalties.

7. (*1*) Any person, who—

(*a*) having in his possession or custody or under his control any property forming part of the undertaking of either of the two companies, wrongfully withholds such property from the Custodian or any person authorised under this Act, or

(*b*) wrongfully obtains possession of any such property, or

(*c*) wilfully retains any property forming part of the undertakings of the two companies or either of them or removes or destroys it, or

(*d*) wilfully withholds or fails to deliver any books, papers or other documents which may be in his possession, power or custody or under his control to the Custodian or any person authorised under this Act, or

(*e*) fails, without any reasonable cause, to furnish information or particulars as provided in sub-section (*8*) of section 4,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

(*2*) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or an officer authorised by that Government in this behalf.

Offences by companies.

8. (*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company and it is

proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Exclusion from limitation of the period of operation of Act.

9. In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by either of the two companies in respect of any matter arising out of any transaction in relation to the undertaking of any of such companies, the time during which this Act is in force shall be excluded.

Act to have overriding effect.

10. The provisions of this Act or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court.

Protection of action taken in good faith.

11. (*1*) No suit, prosecution or other legal proceeding shall lie against the Custodian, Additional Custodian or any officer or other employee of the Central Government or of either of the two companies for anything which is in good faith done or intended to be done under this Act.

(*2*) No suit or other legal proceeding shall lie against the Central Government or the Custodian or the Additional Custodian or any of the officers or other employees of the Central Government or of either of the two companies for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Contracts, etc., in bad faith may be cancelled or varied.

12. (*1*) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into at any time within three years immediately preceding the appointed day, between either of the two companies or managing or other director of any such company and any other person, in so far as such contract or agreement relates to the undertaking of either of the two companies, has been entered into in bad faith, or is detrimental to the interests of the undertaking of the concerned company, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(*2*) Any person aggrieved by an order made under sub-section (*1*) may make an application to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the concerned company is situated for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

Avoidance of voluntary transfers.

13. Any transfer of property, movable or immovable, or any delivery of goods made by or on behalf of either of the two companies (not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser in good faith and for valuable consideration), if made within a period of six months immediately preceding the appointed day shall be void against the Central Government or the Custodian, as the case may be.

Power to terminate contracts of employment.

14. If the Custodian is of opinion that any contract of employment entered into by either of the two companies or any managing agent or managing or other director of either of the two companies, at any time before the appointed day is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

Power to make rules.

15. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(*2*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Messrs. Burn and Company Limited, Calcutta, and Messrs. Indian Standard Wagon Company Limited, Calcutta, are engaged in the manufacture of Railway Wagons, Steel Structurals, Wagon Components and Refractories which are vitally needed in the metallurgical and transportation and iron and steel industry. Messrs. Indian Standard Wagon Company Limited (incorporated on 25th November, 1918) has its works at Burnpur, Asansol and is engaged in the manufacture of Railway Wagons, Steel Forgings, Leaf Springs, Coil Springs and complete sets of components for wagons, such as, forgings, pressings, door stampings, etc. Messrs. Burn and Company Limited (incorporated on 30th March, 1895) has its works at Howrah, Raniganj, Gulfar Bari, Jubbalpur, Niwar, Durgapur, Ondal, Lalkoti and Salem. In the Howrah works, the Company is engaged in the manufacture of Railway Wagons, Cranes, Heavy Steel Structurals fabrication, Steel castings, Steel forgings, cast iron castings and railway points and crossings. The other units of this Company are engaged in the manufacture of refractories and in due time ceramics.

2. From the middle of 1972, the Government started receiving reports from the West Bengal Government and the various workers' unions about the gross mismanagement of the two companies resulting in an alarming drop in production and erosion of capital resources. After considering the various reports received, the Government decided to appoint two separate committees of investigation to look into the affairs of the Indian Standard Wagon Company Limited and Messrs. Burn and Company Limited. The reports of the Committees of Investigation confirmed that the financial situation of the two companies has worsened over the years. As regards Messrs. Indian Standard Wagon Company Limited, it was seen that the net worth of the company as on 31st March, 1972 was (minus) Rs. 88.69 lakhs and its accumulated losses came to Rs. 265.21 lakhs. The deficit in the working capital was about Rs. 165.50 lakhs. As far as Burn and Company Limited was concerned, it was seen that the company was declaring dividends at the rate of 17½ per cent till 1965-66, in 1966-67 its net profits came down to Rs. 6.82 lakhs as against Rs. 158.76 lakhs in 1965-66. Thereafter the company started incurring very heavy losses and the accumulated loss as on 30th April, 1972 was Rs. 118.35 lakhs. The deficit in the working capital was to the etxent of Rs. 50.43 lakhs.

3. Both the Committees of Investigation came to the conclusion that the worsening of the situation was primarily due to the failure on the part of the management to discharge their functions in an efficient, proper and timely manner. The management did not appear to have given any proper attention to the problems of diversification, proper delegation of authority, proper re-organisation of activities, adequate financial planning, etc., as a result of which matters were allowed to steadily deteriorate. The conclusion of both the Committees of Investigation was that the management had proved itself to be unworthly of the task of properly managing the company.

4. Both the companies are at present on the verge of closure in view of the financial bankruptcy and the consequent credit squeeze applied by the financial institutions. The action with regard to the two companies will have to be concurrent because of two factors, *viz.* (*a*) financial inter-linking and (*b*) production inter-linking. Messrs. Martin Burn Limited together with Messrs. Burn and Company Limited, the Directors of the Company and their relatives hold about 48 per cent of the ordinary shares of Messrs. Indian Standard Wagon Company Limited. Apart from that Messrs. Indian Standard Wagon Company Limited are dependent on Messrs. Burn and Company Limited for supply of certain critical inputs like castings, etc. The refractory units of Messrs. Burn and Company are supplying critical inputs to the iron and steel industry and it is also necessary to ensure that they continue and further expand the supply of refractories.

5. In the context of the fact that both the Companies are engaged in the manufacture of items vital to the country's economy and particularly in view of the fact that certain facilities in Messrs. Burn and Company Limited are needed critically not only to this company but if developed, will serve a large variety of industries in future, the Government, considers that it would be essential to revive both the companies in public interest in a manner so as to make the optimum utilisation of the installed capacity. Both these companies are also executing important export orders for Railway Wagons and the drop in production in both the units has caused serious difficulty in the way of scheduled completion of these export orders. The revival of both the Companies would require injection of financial resources of modernisation, diversification, expansion, etc., of a magnitude which would be beyond the capabilities of the existing management. Besides the management do not appear to be able to stem the rot which has set in. It is therefore necessary to take a total and consistent view on both the companies which are inter-linked both financially and production-wise.

6. After carefully considering all the factors, it is considered expedient in the public interest to take over, initially the management of Messrs. Indian Standard Wagon Company Limited, Calcutta and Messrs. Burn and Company Limited, Calcutta, and to completely acquire the undertakings of the two companies subsequently. It is proposed to pay to the Companies an amount at the rate of Rs. 25,000 per annum in the case of Messrs. Indian Standard Wagon Company Limited, Calcutta and at the rate of Rs. 50,000 per annum in the case of Messrs. Burn and Company Limited, Calcutta during the period of Government' management as indicated above.

NEW DELHI;

The 19th November, 1973.

T. A. PAI.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of Letter from Shri T. A. Pai, Minister of Heavy Industry, to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Bill to provide for the taking over, in the public interest, of the management of the undertakings of the Burn Company and Indian Standard Wagon Company, pending nationalisation of such undertakings, recommends under clauses (1) and (3) of Article 117 of the Constitution, the introduction of the said Bill in and consideration by the Lok Sabha.

FINANCIAL MEMORANDUM

The Burn and Company and Indian Standard Wagon Company (Taking Over of Management) Bill, 1973, provides for the taking over of the management of Messrs. Indian Standard Wagon Company Limited, Calcutta and Messrs. Burn and Company Limited, Calcutta, by the Government.

Clause 5 of the Bill provides for the payment of an amount at the rate of Rs. 25,000 per annum in the case of Messrs. Indian Standard Wagon Company Limited and at the rate of Rs. 50,000 per annum in the case of Messrs. Burn and Company Limited, Calcutta. The Bill, if enacted, would thus involve a recurring expenditure of Rs. 75,000 per annum on this head during the period of Government management.

The Industrial Reconstruction Corporation of India has agreed to provide the necessary finance to run the two Companies during the period of Government management and hence no budgetary support is required on this account.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules to carry out the provisions of the Act. The matters with regard to which rules will be made are matters of detail and it is hardly possible to specify them in the Bill.

The delegation of legislative power is, therefore, of a normal character.

BILL NO. 93 OF 1973

A Bill to provide for the acquisition of the undertakings of the Alcock Ashdown Company Limited for the purpose of ensuring rational and co-ordinated development and production of goods essential to the needs of the country in general, and defence department in particular, and for matters connected therewith or incidental thereto.

WHEREAS Alcock Ashdown Company Limited were engaged in boat building, ship repairs and the production of marine diesel engines, and were also engaged in the production of goods which are essential to the needs of the country, such as, light and heavy structurals, transmission line towers, railway points and crossings, grey iron castings and also other goods needed by the maritime and other industries;

AND WHEREAS as a result of heavy losses suffered by the company, an order has been made by the High Court at Bombay for the winding up of the company;

AND WHEREAS there has been a complete closure of the work of the undertakings owned by the company from after January, 1971;

AND WHEREAS it is urgently necessary to bring the undertakings owned by the company into operation so that the interests of the country in general, and the defence department in particular, may not be adversely affected by reason of the stoppage of production and supply of goods produced by the company;

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the date on which this Act comes into force;

(*b*) "company" means the Alcock Ashdown Company Limited, being a company as defined in the Companies Act, 1956, and having its registered office in the State of Maharashtra; 1 of 1956.

(*c*) "Court" means the High Court at Bombay;

(*d*) words and expressions used herein and not defined but defined in the Companies Act, 1956, have the meanings respectively assigned to them in that Act. 1 of 1956.

Undertakings of the company to vest in the Central Government.

3. On and from the appointed day, the undertakings of the company shall, by virtue of this Act, be transferred to, and shall vest in, the Central Government.

General effect of vesting.

4. (*1*) The undertakings of the company shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(*2*) All property included as aforesaid in the undertakings which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other incumbrances affecting it, and any attachment, injunction or any decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(*3*) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any business of the undertakings of the company is pending by or against the company, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of the company or of anything contained in this Act but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the company.

Duty to deliver possession of the undertakings and documents relating thereto.

5. (*1*) Notwithstanding any decree, judgment or order of any court or anything contained in any other law for the time being in force, the Receiver, Official Liquidator of the company or any other person, in whose possession or custody or under whose control the undertakings of the company or any part thereof may be, shall deliver possession of the undertakings of the company or such part thereof as may be in his possession, custody or control to the Central Government forthwith.

(*2*) The Receiver, Official Liquidator or any other person who has, on the appointed day, in his possession or under his custody or control any books, documents or other papers relating to the undertakings of the company which have vested, under section 3, in the Central Government, shall be liable to account for the said books, document or other papers to the Central Government or to such person as the Central Government may specify in this behalf.

(*3*) The Central Government may take, or cause to be taken, all necessary steps for securing possession of the undertakings which have vested in it under section 3.

Duty to furnish particulars

6. (*1*) The company shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all the properties and assets of the company, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under section 3.

(*2*) So much of the obligation of the company under sub-section (*1*) as relates to the properties and assets of the company in the possession, custody or control of the Receiver shall be discharged by him and so much of that obligation as relates to the properties and assets in the possession, custody or control of the Official Liquidator shall be discharged by the Official Liquidator.

Payment of amount.

7. (*1*) The Central Government shall deposit, in cash, in Court, to the credit of the company, an amount equal to the sum of rupees one crore for the transfer to, and vesting in, the Central Government, under section 3 of the undertakings of the company.

(*2*) For the avoidance of doubts, it is hereby declared that the liabilities of the company in relation to the undertakings which have vested in the Central Government under section 3, shall be met from the amount referred to in sub-section (*1*).

(*3*) In meeting the liabilities of the company in relation to the undertakings which have vested in the Central Government under section 3, the Court shall distribute the amount referred to in sub-section (*1*) amongst the creditors of the company, whether secured or unsecured, in accordance with their rights and interests, and if there is any surplus left after such distribution, amongst the contributories of the company in accordance with the rights and interests of such contributories.

Management and administration of the undertakings.

8. The undertakings, which have vested in the Central Government under section 3, shall be managed on behalf of the Central Government by such person or body of persons (including one or more Government companies, whether in existence at the commencement of this Act or incorporated thereafter) as may be nominated by the Central Government

in this behalf, and such person or body of persons shall carry on the management in accordance with such regulations as may be made by the Central Government in this behalf.

Penalties.

9. (*1*) Any person who—

(*a*) having in his possession, custody or control any roperty forming part of the undertakings of the company, wrongfully withholds such property from the Central Government; or

(*b*) wrongfully obtains possession of any property forming part of the undertakings of the company which have vested in the Central Government under this Act; or

(c) wilfully withholds or fails to furnish to the Central Government as required by sub-section (*2*) of section 5 any document which may be in his possession, custody or control; or

(*d*) wilfully fails to furnish an inventory as required under section 6; or

(*e*) when required to furnish such inventory, furnishes any particulars therein which are false and which he either knows or believes to be or does not believe to be true,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that the court trying any offence under clause (*a*) or clause (*b*) or clause (c) of this sub-section may, at the time of convicting the accused person, order him to deliver up or refund within a time to be fixed by the court any property wrongfully withheld or wrongfully obtained or any document wilfully withheld or not furnished.

(*2*) No court shall take cognizance of any offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by that Government in this behalf.

Offences by companies.

10. (*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Protection of action taken in good faith.

11. No suit, prosecution or other legal proceeding shall lie against the Central Government or an officer or other employee serving in connection with the affairs of the undertakings of the company for anything which is in good faith done or intended to be done under this Act.

Power to make regulations.

12. (1) The Central Government may, by notification in the Official Gazette, make regulations with regard to the matters specified in section 8.

(2) Every regulation made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

STATEMENT OF OBJECTS AND REASONS

Messrs. Alcock, Ashdown and Company Limited was incorporated on 17-3-1884 at Bombay. The Company owns two plants, one at Bombay and the other at Bhavnagar. Its activities which are included in the list of priority industries, comprise of Light and Heavy Structurals, Transmission Line Towers, Railway Points and Crossings, Ship Repairs, Boat Building, Marine Diesel Engines, etc.

2. The Company which was making substantial profits till 1965 started declining from 1969 onwards and came to a close in January, 1971. The affairs of the Company were subsequently investigated by the Government through an Investigation Committee and the report revealed that while the deterioration in the performance of the Company was caused by a number of factors, the primary cause was the serious lapse on the part of the management in running the Company.

3. After the closure of the Company, on the application of one of its unsecured creditors, an order for the winding up of the Company was made by the Bombay High Court on 13-1-1972. After the winding up order, on the application of the Bank of Maharashtra, one of the secured creditors of the Company, a Receiver was appointed by the High Court for looking after the interests of the secured creditors. The Official Receiver has now invited tenders regarding the auctioning of the properties of the Company at Bombay and Bhavnagar.

4. As the Company was formerly engaged in boat building, ship repairs and the production of marine diesel engines, and was also engaged in the production of goods which are essential to the needs of the country in general and defence departments in particular, the necessity to revive the activities of the Company for the production of goods for the various strategic use was carefully considered. After considering all the aspects of the matter, it is felt that it is expedient, in public interest, to acquire, on payment of a sum of rupees one crore, the undertakings of Messrs. Alcock, Ashdown and Company Limited at Bombay and Bhavnagar. The Bill seeks to achieve the said object.

NEW DELHI; T. A. PAI.

The 23rd November, 1973.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of Letter No. 20-8/71-HM-2, dated the 24th November, 1973 from Shri T. A. Pai, Minister of Heavy Industry, to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Bill to provide for the acquisition, in the public interest, of the undertakings of Messrs. Alcock, Ashdown and Company Limited at Bombay and Bhavnagar, recommends under clauses (1) and (3) of Article 117 of the Constitution, the introduction of the said Bill and its consideration by the Lok Sabha.

FINANCIAL MEMORANDUM

The Alcock, Ashdown and Company Limited (Acquisition of Undertakings) Bill, 1973, provides for the acquisition of the undertakings of Messrs. Alcock, Ashdown and Company Limited at Bombay and Bhavnagar.

Clause 7 of the Bill provides for the payment of an amount of rupees one crore for this purpose. The Bill, if enacted, would thus involve a non-recurring expenditure of rupees one crore on this head.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make regulations with regard to the management of the undertakings of the Company which have vested in the Central Government under clause 3. The matters with regard to which regulations will be made are matters of detail and it is hardly possible to specify them in the Bill.

The delegation of legislative power is, therefore, of a normal character.

S. L. SHAKDHER,

Secretary-General.

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